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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina: draft resolution

Towards a multilateral legal instrument to promote and protect the human rights and dignity of older persons

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights,[2] the Convention on the Elimination of All Forms of Discrimination against Women,[3] the Convention on the Rights of Persons with Disabilities[4] and other relevant human rights instruments,

Reaffirming the Vienna Declaration and Programme of Action,[5]

Recalling its resolution 57/167 of 18 December 2002, in which it endorsed the Political Declaration[6] and the Madrid International Plan of Action on Ageing, 2002,[7] its resolution 58/134 of 22 December 2003, in which it took note, inter alia, of the road map for the implementation of the Madrid Plan of Action, and its resolutions 60/135 of 16 December 2005, 61/142 of 19 December 2006, 62/130 of 18 December 2007, 63/151 of 18 December 2008, 64/132 of 18 December 2009, 65/182 of 21 December 2010, 66/127 of 19 December 2011, 67/139 and 67/143 of 20 December 2012, 68/134 of 18 December 2013 and 69/146 of 18 December 2014,

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[4] Ibid., vol. 2515, No. 44910.
[5] A/CONF.157/24 (Part I), chap. III.
[6] *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4), chap. I, resolution 1, annex I.
[7] Ibid., annex II.

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Taking note with appreciation of the appointment by the Human Rights Council, by its resolution 24/20 of 27 September 2013, of the Independent Expert on the enjoyment of all human rights by older persons,[8]

Noting with appreciation the report of the Secretary-General on the follow-up to the International Year of Older Persons: Second World Assembly on Ageing[9] and the report of the United Nations High Commissioner for Human Rights on the human rights of older persons,[10]

Taking note with appreciation of the work of the Open-ended Working Group on Ageing,[11] and recognizing the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, intergovernmental and relevant non-governmental organizations, national human rights institutions and invited panellists, during the first six working sessions of the Working Group,

Welcoming the important opportunity to further mainstream ageing issues provided by the adoption of the 2030 Agenda for Sustainable Development and its pledge that no one shall be left behind,[12]

Welcoming also the recent regional developments towards the effective protection and promotion of the human rights of older persons, such as the adoption of the Inter-American Convention on the Protection of Human Rights of Older Persons,

Noting that, between 2015 and 2030, the number of persons aged 60 years or over in the world is projected to grow by 56 per cent, from 901 million to 1.4 billion,[13] and recognizing that the increase in the number of older people will be the greatest and the most rapid in the developing world,

Recognizing the essential contribution that older men and women can make to the functioning of societies and to the achievement of the 2030 Agenda for Sustainable Development if adequate guarantees are in place,

Concerned at the multiple forms of discrimination that may affect older persons and at the high incidence of poverty among this particularly vulnerable group, especially older women, persons with disabilities, persons of African descent, indigenous peoples, persons belonging to national or ethnic, religious and linguistic minorities, rural persons, persons living on the streets and refugees, among other groups,

Recognizing that, at the international level, there are policies, standards and mechanisms aimed at protecting and promoting the rights of older persons, either in the form of generic or specific provisions, especially in the field of international labour law, as well as international human rights law, and that this leads to a context of regulatory dispersion, as a result of which the rights of older persons lack systematic protection,

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[8] See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53A* (A/68/53/Add.1), chap. III.

[9] A/70/185.

[10] E/2012/51.

[11] See A/AC.278/2015/2.

[12] See resolution 70/1, annex.

[13] See Department of Economic and Social Affairs, *World Population Ageing Prospects: The 2015 Revision, Key Findings and Advance Tables* (ESA/P/WP.241).

Recognizing also that the lack of a comprehensive and integrated international legal instrument to promote and protect the rights and dignity of the elderly has significant practical implications, given that:

(a) Existing regulations do not consolidate, let alone conceptualize, regulatory principles to guide public action and policies of Governments,

(b) General human rights standards do not consider the recognition of third generation-specific rights in favour of elderly adults,

(c) It is difficult to clarify the obligations of States with respect to older persons,

(d) Procedures for monitoring human rights treaties generally ignore older persons,

(e) Current instruments do not make the issues of ageing visible enough, precluding the education of the population, and with it the effective integration of the elderly,

Noting that the different efforts made to increase cooperation and integration and increasing awareness of and sensitivity to ageing issues since the adoption of the Madrid International Plan of Action on Ageing, 2002, by Governments, relevant bodies of the United Nations system and civil society, including non-governmental organizations and the private sector, have not been sufficient to promote full and effective participation by and opportunities for older persons in economic, social, cultural and political life,

Noting also that the situation of older persons presents a number of particular and urgent human rights challenges related to civil, cultural, economic, political and social rights, exacerbated by normative and operational gaps in protection, posing a set of issues that deserves in-depth analysis and regulation,

1. *Recognizes* the challenges related to the enjoyment of all human rights that older persons face, including in areas such as prevention of and protection against violence and abuse, social protection, food and housing, employment, legal capacity, access to justice, health support and long-term and palliative care, and that those challenges require in-depth analysis and action to address protection gaps;

2. *Acknowledges* that the major challenges faced by older persons undermine their social, economic and cultural participation and the full enjoyment of their human rights;

3. *Recognizes* that there is no binding international human rights instrument devoted to older persons and that current arrangements at the national and international level to protect the human rights of older persons are inadequate, and encourages Member States to explore alternative measures, including a new dedicated international instrument and the mainstreaming of the human rights of older persons throughout existing mechanisms, policies and programmes;

4. *Also recognizes* that the non-binding Madrid International Plan of Action on Ageing, 2002[7] remains the only international instrument devoted to older persons, and that while it has had a positive impact, this instrument does not provide a comprehensive human rights framework for older persons;

5. *Encourages* Governments to actively address, through national, regional and international efforts, issues that affect older persons and to ensure that the social integration of older persons and the promotion and protection of their human rights form an integral part of development policies at all levels;

6. *Invites* Member States to continue to share their national experiences in developing and implementing policies and programmes aimed at strengthening the promotion and protection of the human rights of older persons, including within the framework of the Open-ended Working Group on Ageing established by the General Assembly in paragraph 28 of its resolution 65/182;

7. *Recommends* that States parties to existing international human rights instruments, where appropriate, address the situation of older persons more explicitly in their reports, and encourages treaty body monitoring mechanisms and special procedures mandate holders, in accordance with their mandates, to pay more attention to the situation of older persons in their dialogue with Member States, in their consideration of reports and in their country missions;

8. *Encourages* Member States to ensure that older persons have access to information about their rights so as to enable them to participate fully and justly in their societies and to claim full enjoyment of all human rights;

9. *Invites* relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Open-ended Working Group, as appropriate;

10. *Calls upon* Member States to continue to contribute to the work of the Open-ended Working Group, in particular by presenting practical measures, best practices and lessons learned, as well as concrete proposals for a multilateral legal instrument to promote and protect the human rights and dignity of older persons, in order to enable the Open-ended Working Group to fulfil its mandate of strengthening the protection of the human rights of older persons;

11. *Requests* the Secretary-General to continue to provide all necessary support to the Open-ended Working Group, within existing resources, for the organization of a seventh working session, in 2016.